

GENERAL ASSEMBLY OF NORTH CAROLINA
SESSION 2017

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SENATE BILL 16
Judiciary Committee Substitute Adopted 2/21/17
House Committee Substitute Favorable 6/14/17
Fourth Edition Engrossed 6/15/17
Proposed Conference Committee Substitute S16-PCCS45487-SB-5

Short Title: Business Regulatory Reform Act of 2017.

(Public)

Sponsors:

Referred to:

January 30, 2017

1 A BILL TO BE ENTITLED
2 AN ACT TO PROVIDE FURTHER REGULATORY RELIEF TO THE CITIZENS OF
3 NORTH CAROLINA.

4 The General Assembly of North Carolina enacts:

5
6 **REQUIRE AGENCIES AND THE OFFICE OF ADMINISTRATIVE HEARINGS TO**
7 **PROVIDE ADDITIONAL NOTICE OF PETITIONS FOR RULE MAKING**

8 **SECTION 1.(a)** G.S. 150B-20(a) reads as rewritten:

9 "(a) Petition. – A person may petition an agency to adopt a rule by submitting to the
10 agency a written rule-making petition requesting the adoption. A person may submit written
11 comments with a rule-making petition. If a rule-making petition requests the agency to create
12 or amend a rule, the person must submit the proposed text of the requested rule change and a
13 statement of the effect of the requested rule change. Each agency must establish by rule the
14 procedure for submitting a rule-making petition to it and the procedure the agency follows in
15 considering a rule-making petition. An agency receiving a rule-making petition shall, within
16 three business days of receipt of the petition, send the proposed text of the requested rule
17 change and the statement of the effect of the requested rule change to the Office of
18 Administrative Hearings. The Office of Administrative Hearings shall, within three business
19 days of receipt of the proposed text of the requested rule change and the statement of the effect
20 of the requested rule change, distribute the information via its mailing list and publish the
21 information on its Web site."

22 **SECTION 1.(b)** This section becomes effective January 1, 2018.

23
24 **WILDLIFE RESOURCES COMMISSION PRIVATE IDENTIFYING INFORMATION**

25 **SECTION 2.** G.S. 143-254.5 reads as rewritten:

26 **"§ 143-254.5. Disclosure of personal identifying information.**

27 Social security numbers and identifying information obtained by the Commission shall be
28 treated as provided in G.S. 132-1.10. For purposes of this section, "identifying information"
29 also includes a person's mailing address, residence address, e-mail address, Commission-issued
30 customer identification number, date of birth, information subject to G.S. 106-24.1 transferred
31 to the Commission from the Department of Agriculture and Consumer Services, and telephone
32 number."
33



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1 **PROVIDE FOR HEIGHTENED ENVIRONMENTAL MANAGEMENT COMMISSION**
2 **OVERSIGHT OF CERTAIN REPORTS**

3 **SECTION 3.** G.S. 143B-282(a)(1) is amended by adding a new sub-subdivision to
4 read:

5 "w. To identify, review, and assess reports prepared by the Department of
6 Environmental Quality that are required by an act of the General
7 Assembly and that the Commission finds would have a significant
8 public interest and to include that assessment in its report to the
9 Environmental Review Commission under subsection (b) of this
10 section."

11
12 **ALLOW OPTIONAL MEALS FOR BED AND BREAKFAST GUESTS**

13 **SECTION 4.(a)** G.S. 130A-247(5a) reads as rewritten:

14 "(5a) "Bed and breakfast home" means a business in a private home of not more
15 than eight guest rooms that offers bed and breakfast accommodations for a
16 period of less than one week and that meets all of the following criteria:

- 17 a. Does not serve food or drink to the general public for pay.
18 b. Serves the breakfast meal, the lunch meal, the dinner meal, or a
19 combination of all or some of these three meals, only to overnight
20 guests of the home.
21 c. Includes the price of any meals served breakfast in the room rate. The
22 price of additional meals served may be added to the room rate at the
23 conclusion of the overnight guest's stay.
24 d. Is the permanent residence of the owner or the manager of the
25 business."

26 **SECTION 4.(b)** G.S. 130A-247(6) reads as rewritten:

27 "(6) "Bed and breakfast inn" means a business of at least nine but not more than
28 12 guest rooms that offers bed and breakfast accommodations to at least nine
29 but not more than 23 persons per night for a period of less than one week,
30 and that that meets all of the following requirements:

- 31 a. Does not serve food or drink to the general public for ~~pay~~;pay.
32 b. Serves ~~only~~the breakfast meal, ~~and that meal is served~~the lunch
33 meal, the dinner meal, or a combination of all or some of these three
34 meals only to overnight guests of the business;business.
35 c. Includes the price of breakfast in the room rate; andrate. The price of
36 additional meals served may be added to the room rate at the
37 conclusion of the overnight guest's stay.
38 d. Is the permanent residence of the owner or the manager of the
39 business."

40 **SECTION 4.(c)** This section becomes effective January 1, 2018.

41
42 **AMEND ALARM SYSTEM BUSINESS LICENSING STATUTES**

43 **SECTION 5.(a)** G.S. 74D-2(c) reads as rewritten:

44 "(c) Qualifying Agent. – A business entity that engages in the alarm systems business is
45 subject to all of the requirements listed in this subsection with respect to a qualifying agent. For
46 purposes of this Chapter, a "qualifying agent" is an individual in a management position who is
47 licensed under this Chapter and whose name and address have been registered with the Board.
48 The requirements are:

- 49 (1) The business entity shall employ a designated ~~resident~~qualifying agent who
50 meets the requirements for a license issued under and who is, in fact,
51 licensed under the provisions of this Chapter, unless otherwise approved by

1 the Board. ~~Provided, however, that this approval shall not be given unless~~
 2 ~~the business entity has and continuously maintains in this State a registered~~
 3 ~~agent who shall be an individual resident in this State.~~ Service upon the
 4 registered qualifying agent appointed by the business entity of any process,
 5 notice or demand required by or permitted by law to be served upon the
 6 business entity by the Alarm Systems Licensing Board shall be binding upon
 7 the licensed business entity and the licensee entity. Nothing herein contained
 8 shall limit or affect the right to serve any process, notice or demand required
 9 or permitted by law to be served upon a business entity in any other manner
 10 or hereafter permitted by law.

11 (2) Repealed by Session Laws 2009-328, s. 15, effective October 1, 2009.

12 (3) In the event that the qualifying agent upon whom the business entity relies in
 13 order to do business ceases to perform his duties as qualifying agent, the
 14 business entity shall notify the board in writing within 10 working days. The
 15 business entity must obtain a substitute qualifying agent within 90 days after
 16 the original qualifying agent ceases to serve as qualifying agent.

17 (4) The license certificate shall list the name of the qualifying agent. No licensee
 18 shall serve as the qualifying agent for more than one business entity without
 19 the prior approval of the Board.

20 (5) Repealed by Session Laws 2009-328, s. 15, effective October 1, 2009."

21 **SECTION 5.(b)** G.S. 74D-8 reads as rewritten:

22 **"§ 74D-8. Registration of persons employed.**

23 (a) (1) ~~All licensees~~ A licensee of an alarm systems business shall register with the
 24 Board within 30 days after the employment begins, all of the ~~licensee's~~
 25 following employees that are within the State, unless in the discretion of the
 26 Director, the time period is extended for good ~~cause~~ cause:

27 a. Any employee that has access to confidential information detailing
 28 the design, installation, or application of any location specific
 29 electronic security system or that has access to any code, number, or
 30 program that would allow the system to be modified, altered, or
 31 circumvented.

32 b. Any employee who installs or services an electronic security system
 33 in a personal residence.

34 Employees engaged only in sales or marketing that does not involve any of
 35 the above are not required to be registered.

36 (2) To register an employee, a licensee shall submit to the Board as to the
 37 employee: set(s) of classifiable fingerprints on standard F.B.I. applicant
 38 cards; recent color photograph(s) of acceptable quality for identification; and
 39 statements of any criminal records as deemed appropriate by the Board.

40 ~~(2)~~(3) Except during the period allowed for registration in subdivision (a)(1) of this
 41 section, no alarm systems business may employ any employee unless the
 42 employee's registration has been approved by the Board as set forth in this
 43 section.

44 (b) The Director shall be notified in writing of the termination of any employee
 45 registered under this Chapter within 20 days after the termination.

46 (c) The Board shall issue a registration card to each employee of a licensee who is
 47 registered under this Chapter. The registration card shall expire two years after its date of
 48 issuance and shall be renewed before the expiration of the term of the registration. If a
 49 registered person changes employment to another licensee, the registration card may remain
 50 valid; however, persons changing employment must pay the fee authorized by
 51 G.S. 74D-7(e)(5).

1 (d) If all required documents, properly completed, have been submitted to the Board no
2 later than 20 days after an employee begins employment, the employer of each applicant for
3 registration shall give the applicant a copy of the complete application which the employee can
4 use until a registration card issued by the Board is received."
5

6 **ELIMINATE DUPLICATIVE AND UNNECESSARY ELECTRICAL EQUIPMENT**
7 **AND APPLIANCE CERTIFICATION REQUIREMENTS**

8 **SECTION 6.(a)** G.S. 66-25 reads as rewritten:

9 **"§ 66-25. Acceptable listings as to safety of goods.**

10 (a) All electrical materials, devices, appliances, and equipment shall be evaluated for
11 safety and suitability for intended use. Except as provided in ~~subsection (b)~~ subsections (b) and
12 (c) of this section, this evaluation shall be conducted in accordance with nationally recognized
13 standards and shall be conducted by a qualified testing laboratory. The Commissioner of
14 Insurance, through the Engineering Division of the Department of Insurance, shall implement
15 the procedures necessary to approve suitable national standards and to approve suitable
16 qualified testing laboratories. The Commissioner may assign his authority to implement the
17 procedures for specific materials, devices, appliances, or equipment to other agencies or bodies
18 when they would be uniquely qualified to implement those procedures.

19 In the event that the Commissioner determines that electrical materials, devices, appliances,
20 or equipment in question cannot be adequately evaluated through the use of approved national
21 standards or by approved qualified testing laboratories, the Engineering Division of the
22 Department of Insurance shall specify any alternative evaluations which safety requires.

23 The Engineering Division of the Department of Insurance shall keep in file, where
24 practical, copies of all approved national standards and resumes of approved qualified testing
25 laboratories.

26 (b) Electrical devices, appliances, or equipment used by the Division of Adult
27 Correction and Juvenile Justice of the Department of Public Safety in institutional kitchens and
28 manufacturing equipment used by Correction Enterprises are exempt from the evaluation
29 requirement of subsection (a) of this section.

30 (c) The Department of Administration, Division of Purchase and Contract, shall not
31 seek to enforce the provisions of subsection (a) of this section by any means, including
32 requiring acceptance inspections or additional testing of electrical materials, devices,
33 appliances, or equipment purchased by State departments, agencies, and institutions."

34 **SECTION 6.(b)** Upon the effective date of this section, the Department of
35 Administration, Division of Purchase and Contract, shall publish a notice on its Web site
36 indicating that acceptance inspections and additional testing are no longer required for the
37 purchase of electrical materials, devices appliances, or equipment by State departments,
38 agencies, and institutions.
39

40 **AUTHORIZE PRIVATE CONDEMNATION OF LAND FOR PIPELINES AND MAINS**
41 **ORIGINATING OUTSIDE OF NORTH CAROLINA**

42 **SECTION 7.** G.S. 40A-3(a)(1) reads as rewritten:

43 "(1) Corporations, bodies politic or persons have the power of eminent domain
44 for the construction of railroads, power generating facilities, substations,
45 switching stations, microwave towers, roads, alleys, access railroads,
46 turnpikes, street railroads, plank roads, tramroads, canals, telegraphs,
47 telephones, electric power lines, electric lights, public water supplies, public
48 sewerage systems, flumes, bridges, and pipelines or mains ~~originating in~~
49 ~~North Carolina~~ for the transportation of petroleum products, coal, gas,
50 limestone or minerals. Land condemned for any liquid pipelines shall:

51 a. Not be less than 50 feet nor more than 100 feet in width; and

1 b. Comply with the provisions of G.S. 62-190(b).
2 The width of land condemned for any natural gas pipelines shall not be more
3 than 100 feet."
4

5 **CLARIFY STORMWATER LAWS**

6 **SECTION 8.** G.S. 143-214.7(b3) reads as rewritten:

7 "(b3) Stormwater runoff rules and programs shall not require private property owners to
8 install new or increased stormwater controls for (i) preexisting development or (ii)
9 redevelopment activities that do not remove or decrease existing stormwater controls. When a
10 preexisting development is redeveloped, either in whole or in part, increased stormwater
11 controls shall only be required for the amount of impervious surface being created that exceeds
12 the amount of impervious surface that existed before the redevelopment."
13

14 **AMEND THE THRESHOLD FOR COASTAL STORMWATER REQUIREMENTS** 15 **FOR RESIDENTIAL PROJECTS**

16 **SECTION 9.(a)** Definitions. – "Coastal Stormwater Rule" means 15A NCAC 02H
17 .1019 (Coastal Counties) for purposes of this section and its implementation.

18 **SECTION 9.(b)** Coastal Stormwater Rule. – Until the effective date of the revised
19 permanent rule that the Environmental Management Commission is required to adopt pursuant
20 to subsection (d) of this section, the Commission and the Department of Environmental Quality
21 shall implement the Coastal Stormwater Rule, as provided in subsection (c) of this section.

22 **SECTION 9.(c)** Implementation. – The Commission and the Department shall not
23 require a State stormwater permit for a residential project unless the residential project would
24 cumulatively add more than 10,000 square feet of built upon area.

25 **SECTION 9.(d)** Additional Rule-Making Authority. – The Commission shall
26 adopt a rule to amend the Coastal Stormwater Rule consistent with subsection (c) of this
27 section. Notwithstanding G.S. 150B-19(4), the rule adopted by the Commission, pursuant to
28 this section, shall be substantively identical to the provisions of subsection (c) of this section.
29 Rules adopted pursuant to this section are not subject to Part 3 of Article 2A of Chapter 150B
30 of the General Statutes. Rules adopted pursuant to this section shall become effective as
31 provided in G.S. 150B-21.3(b1) as though 10 or more written objections had been received as
32 provided by G.S. 150B-21.3(b2).

33 **SECTION 9.(e)** Sunset. – This section expires when permanent rules adopted as
34 required by subsection (d) of this section become effective.
35

36 **STUDY ELECTRICAL SAFETY FOR SWIMMING POOLS**

37 **SECTION 10.** The Building Code Council shall review electrical safety
38 requirements for swimming pools to determine if the requirements should be amended in order
39 to better protect public safety. No later than December 1, 2017, the Council shall report its
40 findings and recommendations, including any actions the Council has taken related to electrical
41 safety requirements for swimming pools, to the Joint Legislative Oversight Committee on
42 Justice and Public Safety.
43

44 **STUDY USE OF UNGRADED LUMBER IN CERTAIN CIRCUMSTANCES**

45 **SECTION 11.** The Building Code Council shall study under what circumstances it
46 would be appropriate to use lumber that has not been grade stamped under the authority of a
47 lumber grading bureau in construction in North Carolina. The Council shall consider cost,
48 durability, public safety, and any other factors the Council deems necessary. No later than
49 December 1, 2017, the Council shall report its findings and recommendations to the Joint
50 Legislative Oversight Committee on Agriculture and Natural and Economic Resources.
51

1 **REQUIRE ORIGINAL EQUIPMENT BACKUP LAMPS TO BE OPERABLE AND**
2 **STUDY DECREASING THE FREQUENCY OF VEHICLE INSPECTIONS**

3 **SECTION 12.(a)** G.S. 20-129 is amended by adding a new subsection to read:

4 "(h) Backup Lamps. – Every motor vehicle originally equipped with white backup lamps
5 shall have those lamps in operating condition."

6 **SECTION 12.(b)** The Department of Transportation and the Department of
7 Environmental Quality shall jointly study whether the frequency of vehicle safety inspections
8 and vehicle emissions inspections should be decreased. The Departments shall consider public
9 safety, air quality, savings to vehicle owners, impacts on State revenues, and any other factors
10 the Departments deem necessary. No later than March 1, 2018, the Departments shall jointly
11 report their findings and recommendations to the Joint Legislative Transportation Oversight
12 Committee.

13 **SECTION 12.(c)** Subsection (a) of this section becomes effective March 1, 2018,
14 and applies to offenses committed on or after that date.

15
16 **STUDY EROSION AND SEDIMENTATION CONTROL PROGRAMS**

17 **SECTION 13.** The Environmental Review Commission shall study the State
18 sedimentation and erosion control program and locally delegated sedimentation and erosion
19 control programs. The Commission shall specifically examine how the programs could be more
20 efficient and streamlined. The Commission shall report the results of the study, including any
21 findings and recommendations, to the 2018 Regular Session of the 2017 General Assembly.

22
23 **DEPARTMENT OF LABOR TECHNICAL CHANGES**

24 **SECTION 14.(a)** G.S. 95-25.5(a) reads as rewritten:

25 "(a) No youth under 18 years of age shall be employed by any employer in any
26 occupation without a youth employment certificate unless specifically exempted. The
27 Commissioner of Labor shall prescribe regulations for youths and employers concerning the
28 issuance, maintenance and revocation of certificates. Certificates will be issued, subject to
29 review by the Department of Labor, by county directors of social services and such of their
30 designees as are approved by the Commissioner; provided, the Commissioner may also issue
31 certificates, issued by the Commissioner, both directly and electronically."

32 **SECTION 14.(b)** G.S. 95-117 reads as rewritten:

33 **"§ 95-117. Definitions.**

34 Each word or term defined in this Article has the meaning indicated in this section, unless a
35 different meaning is plainly required by the context.

36 (1) Annual gross volume. – The gross receipts a person or passenger tramway
37 receives from all types of sales made and business done during a 12-month
38 period.

39 ~~(1)(2)~~ "Commissioner" means the Commissioner. – The Commissioner of Labor of
40 the State of North Carolina.

41 ~~(2)(3)~~ "Industry" means activities Industry. – Activities of all those persons in the
42 State who own, manage, or direct the operation of passenger tramways.

43 ~~(3)(4)~~ "Operator" means any Operator. – Any person, firm, corporation, or
44 organization which owns, manages, or directs the operation of a passenger
45 tramway. "Operator" may apply to the State or any political subdivision or
46 instrumentality thereof.

47 (5) Owner. – Any person or authorized agent of such person who owns a
48 passenger tramway or, in the event the passenger tramway is leased, the
49 lessee. The term owner shall also include the State of North Carolina or any
50 political subdivision thereof or any unit of local government.

1 ~~(4)(6)~~ "Passenger tramway" means ~~a Passenger tramway.~~ – A device used to
2 transport passengers uphill on skis, or in cars on tracks, or suspended in the
3 air by the use of steel cables, chains or belts, or by ropes, and usually
4 supported by trestles or towers with one or more spans. ~~"Passenger~~
5 ~~tramway" shall include~~ The term includes any of the following devices:

- 6 a. ~~"Chairlift," a Chairlift.~~ – A type of transportation on which
7 passengers are carried on chairs suspended in the air and attached to
8 a moving cable, chain or link belt supported by trestles or towers
9 with one or more spans, or similar ~~devices;~~devices.
- 10 a1. ~~"Conveyor," a Conveyor.~~ – A type of transportation on which
11 passengers are transported uphill on a flexible moving element
12 (conveyor belt) that travels uphill on one path and generally returns
13 underneath the uphill portion.
- 14 a2. Funicular. – A system in which passengers are transported in or on
15 carriers that are supported and guided by a level or inclined
16 guideway and propelled by means of a haul rope or other flexible
17 element that is driven by a power unit remaining essentially at a
18 single location.
- 19 a3. Gondola. – An enclosed cabin attached to a cable that mechanically
20 transports people or cargo.
- 21 b. ~~"J bar, T bar or platter pull, so called and similar types of devices or~~
22 ~~means of transportation~~ J bar, T bar, or platter pull. – Devices which
23 pull skiers riding on skis by means of an attachment to a main
24 overhead cable supported by trestles or towers with one or more
25 ~~spans;~~spans.
- 26 c. ~~"Multicar aerial passenger tramway," a Multicar aerial passenger~~
27 ~~tramway.~~ – A device used to transport passengers in several open or
28 in closed cars attached to, and suspended from, a moving wire rope
29 or attached to a moving wire rope and supported on a standing wire
30 rope, or similar ~~device;~~device.
- 31 d. ~~"Rope tow," a Rope tow.~~ – A type of transportation which pulls the
32 skiers, riding on skis as the skier grasps the rope manually, or similar
33 ~~devices;~~device.
- 34 e. ~~"Skimobile," a Skimobile.~~ – A device in which a passenger car
35 running on steel or wooden tracks is attached to and pulled by a steel
36 cable, or similar ~~device;~~device.
- 37 f. ~~"Two-car aerial passenger tramway," a Two-car aerial passenger~~
38 ~~tramway.~~ – A device used to transport passengers in two open or
39 enclosed cars attached to, and suspended from, a moving wire rope
40 or attached to a moving wire rope and supported on a standing wire
41 rope or similar device.

42 (7) Person. – Any individual, association, partnership, firm, corporation, private
43 organization, or the State of North Carolina or any political subdivision
44 thereof or any unit of local government."

45 **SECTION 14.(c)** Article 15 of Chapter 95 of the General Statutes is amended by
46 adding the following new sections to read:

47 "§ 95-125.1. Operation of unsafe device.

48 No person shall operate, permit to be operated, or use any device subject to the provisions
49 of this Article if the person knows or reasonably should know that the operation or use of the
50 device will expose the public to an unsafe condition which is likely to result in personal injury
51 or property damage.

"§ 95-125.2. Reports required.

(a) The owner of any device regulated under the provisions of this Article, or the owner's authorized agent, shall, within 24 hours, notify the Commissioner of each and every occurrence involving the device when either of the following occurs:

(1) Death or injury requiring medical treatment, other than first aid, by a physician. For the purposes of this section, "first aid" means (i) the one-time treatment or observation of scratches, cuts not requiring stitches, burns, splinters, or contusions or (ii) performing a diagnostic procedure, including examination and X rays, which does not ordinarily require medical treatment even though provided by a physician or other licensed personnel.

(2) Damage to the device indicating a substantial defect in design, mechanics, structure, or equipment that affects the future safe operation of the device. No reporting is required in the case of normal wear and tear.

(b) The Commissioner, without delay, after notification and determination that an occurrence involving injury or damage as specified in subsection (a) of this section has occurred, shall make a complete and thorough investigation of the occurrence. The report of the investigation shall be placed on file in the office of the division and shall give in detail all facts and information available. The owner may submit for inclusion in the file results of investigations independent of the department's investigation.

(c) No person, after an occurrence specified in subsection (a) of this section, shall do either of the following:

(1) Operate, attempt to operate, use, or move or attempt to move such device or part thereof without the approval of the Commissioner, unless so as to prevent injury to any person or persons.

(2) Remove or attempt to remove from the premises any damaged or undamaged part of such device or repair or attempt to repair any damaged part necessary to a complete and thorough investigation. The Department must initiate its investigation within 24 hours of being notified.

"§ 95-125.3. Violations; civil penalties; appeal; criminal penalties.

(a) Any person who violates G.S. 95-118 (Registration required; application procedures) is subject to a civil penalty not to exceed one thousand two hundred fifty dollars (\$1,250) for each day each device is so operated or used.

(b) Any person who violates G.S. 95-120.1 (Liability insurance) or G.S. 95-125.2 (Reports required) is subject to a civil penalty not to exceed two thousand five hundred dollars (\$2,500) for each day each device is so operated and used.

(c) Any person who violates G.S. 95-125.1 (Operation of unsafe device) is subject to a civil penalty not to exceed five thousand dollars (\$5,000) for each day each device is so operated and used.

(d) In determining the amount of any penalty ordered under authority of this section, the Commissioner shall give due consideration to the appropriateness of the penalty with respect to the annual gross volume of the person being charged, the gravity of the violation, the good faith of the person, and the record of previous violations.

(e) The Commissioner's determination of the amount of the penalty is final, unless within 15 days after receipt of notice thereof by certified mail with return receipt, by signature confirmation as provided by the U.S. Postal Service, by a designated delivery service authorized pursuant to 26 U.S.C. § 7502(f)(2) with delivery receipt, or via hand delivery, the person charged with the violation takes exception to the determination, in which event final determination of the penalty shall be made in an administrative proceeding pursuant to Chapter 150B of the General Statutes, the Administrative Procedures Act.

(f) The Commissioner may file in the office of the clerk of the superior court of the county wherein the person, against whom a civil penalty has been ordered, resides or, if a

1 corporation is involved, in the county wherein the violation occurred, a certified copy of a final
2 order of the Commissioner unappealed form, or of a final order of the Commissioner affirmed
3 upon appeal. Upon such filing, the clerk of said court shall enter judgment in accordance with
4 the final order and notify the parties. The judgment shall have the same effect, and all
5 proceedings in relation to the judgment shall thereafter be the same, as though the judgment
6 had been rendered in a suit duly heard and determined by the superior court of the General
7 Court of Justice.

8 (g) Any person who willfully violates any provision of this Article and that violation
9 causes the serious injury or death of any person, then the person is guilty of a Class E felony,
10 which shall include a fine.

11 (h) Nothing in this section prevents any prosecuting officer of the State of North
12 Carolina from proceeding against a person who violates this Article on a prosecution charging
13 any degree of willful or culpable homicide."

14 **SECTION 14.(d)** G.S. 95-174 reads as rewritten:

15 **"§ 95-174. Definitions.**

16 (a) "Chemical manufacturer" ~~shall mean~~ means a manufacturing facility classified in
17 ~~Standard Industrial Classification (SIC) Codes 20 through 39~~ North American Industry
18 Classification System (NAICS) Codes 31 through 33 where chemicals are produced for use or
19 distribution in North Carolina.

20 (b) "Chemical name" ~~shall mean~~ means the scientific designation of a chemical in
21 accordance with the nomenclature system developed by the International Union of Pure and
22 Applied Chemistry (IUPAC), or the Chemical Abstracts Service (CAS) rules of nomenclature
23 or a name which will clearly identify the chemical for the purpose of conducting a hazard
24 evaluation.

25 (c) "Common name" ~~shall mean~~ means any designation or identification such as a code
26 name, code number, trade name, brand name or generic name used to identify a chemical other
27 than by its chemical name.

28 (d) "Distributor" ~~shall mean~~ means any business, other than a chemical manufacturer or
29 importer, which supplies hazardous chemicals to other distributors or to purchasers.

30 (e) "Employee" ~~shall mean~~ means any person who is employed by an employer under
31 normal operating conditions.

32 (f) "Employer" means a person engaged in business who has employees, including the
33 State and its political subdivisions but excluding an individual whose only employees are
34 domestic workers or casual laborers who are hired to work at the individual's residence.

35 (g) "Facility" ~~shall mean~~ means one or more establishments, factories, or buildings
36 located at one contiguous site in North Carolina.

37 (h) "Fire Chief" ~~shall mean~~ means Fire Chief or Fire Marshall, or Emergency Response
38 Coordinator in the absence of a Fire Chief or Fire Marshall for the appropriate local fire
39 department.

40 (i) Repealed by Session Laws 1987, c. 489, s. 1.

41 (j) "Fire Department" ~~shall mean~~ means the fire department having jurisdiction over the
42 facility.

43 (k) "Hazardous chemical" ~~shall mean~~ means any element, chemical compound or
44 mixture of elements and/or compounds which is a physical hazard or health hazard as defined
45 in subsection (c) of the OSHNC Standard or a hazardous substance as defined in standards
46 adopted by the Occupational Safety and Health Division of the North Carolina Department of
47 Labor in Title 13, Chapter 7 of the North Carolina Administrative Code (13 NCAC 7).

48 (l) "Hazardous Substance List" ~~shall mean~~ means the list required by G.S. 95-191.

49 (m) "Hazardous substance trade secret" means any formula, plan, pattern, device,
50 process, production information, or compilation of information, which is not patented, which is
51 known only to the employer, the employer's licensees, the employer's employees, and certain

1 other individuals, and which is used or developed for use in the employer's business, and which
2 gives the employer possessing it the opportunity to obtain a competitive advantage over
3 businesses who do not possess it, or the secrecy of which is certified by an appropriate official
4 of the federal government as necessary for national defense purposes. The chemical name and
5 Chemical Abstracts Service number of a substance shall be considered a trade secret only if the
6 employer can establish that the identity or composition of the substance cannot be readily
7 ascertained without undue expense by analytical techniques, laboratory procedures, or other
8 lawful means available to a competitor.

9 (n) "Label" ~~shall mean~~ means any written, printed, or graphic material displayed on or
10 affixed to containers of hazardous chemicals.

11 (o) "Manufacturing facility" ~~shall mean~~ means a facility classified in ~~SIC Codes 20~~
12 ~~through 39~~ NAICS Code 31 through 33 which manufactures or uses a hazardous chemical or
13 chemicals in North Carolina.

14 (p) ~~"Material Safety"~~ "Safety Data Sheets" or ~~"MSDS"~~ "SDS" ~~shall mean~~ means
15 chemical information sheets adopted by the Occupational Safety and Health Division of the
16 North Carolina Department of Labor in Title 13, Chapter 7 of the North Carolina
17 Administrative Code (13 NCAC 7).

18 (q) "Nonmanufacturing facility" ~~shall mean~~ means any facility in North Carolina other
19 than a facility in ~~SIC Code 20 through 39~~, NAICS Code 31 through 33, the State of North
20 Carolina (and its political subdivisions) and volunteer emergency service organizations whose
21 members may be exposed to chemical hazards during emergency situations.

22 (r) "OSHNC Standard" ~~shall mean~~ means the current Hazard Communication Standard
23 adopted by the Occupational Safety and Health Division of North Carolina Department of
24 Labor in Title 13, Chapter 7 of the North Carolina Administrative Code (13 NCAC 7).

25 (s) "Storage and Container" ~~shall have~~ has the ordinary meaning however it does not
26 include pipes used in the transfer of substances or the fuel tanks of ~~self-propelled~~ self-propelled
27 internal combustion vehicles."

28 **SECTION 14.(e)** G.S. 95-191(a) reads as rewritten:

29 "(a) All employers who manufacture, process, use, store, or produce hazardous
30 chemicals, shall compile and maintain a Hazardous Substance List which shall contain all of
31 the following information for each hazardous chemical stored in the facility in quantities of 55
32 gallons or 500 pounds, whichever is greater:

33 (1) The chemical name or the common name used on the ~~MSDS~~ SDS or
34 container ~~label~~; label.

35 (2) The maximum amount of the chemical stored at the facility at any time
36 during a year, using the following ranges:

37 Class A, which ~~shall include~~ includes quantities of less than 55 gallons or
38 500 ~~pounds~~; pounds.

39 Class B, which ~~shall include~~ includes quantities of between 55 gallons to
40 550 gallons, and quantities of between 500 pounds and 5,000 ~~pounds~~;
41 ~~and~~ pounds.

42 Class C, which ~~shall include~~ includes quantities of between 550 gallons and
43 5500 gallons, and quantities between 5,000 pounds and 50,000 ~~pounds~~;
44 ~~and~~ pounds.

45 Class D, which ~~shall include~~ includes quantities of greater than 5500 gallons
46 or 50,000 ~~pounds~~; ~~and~~ pounds.

47 (3) The area in the facility in which the hazardous chemical is normally stored
48 and to what extent the chemical may be stored at altered temperature or
49 pressure."

50 **SECTION 14.(f)** G.S. 95-192 reads as rewritten:

51 "**§ 95-192. ~~Material safety~~ Safety data sheets.**

1 (a) Chemical manufacturers and distributors shall provide ~~material~~-safety data sheets
2 (~~MSDS's~~)(SDSs) to manufacturing and nonmanufacturing purchasers of hazardous chemicals
3 in North Carolina for each hazardous chemical purchased.

4 (b) Employers shall maintain the most current ~~MSDS~~-SDS received from manufacturers
5 or distributors for each hazardous chemical purchased. If an ~~MSDS~~-SDS has not been provided
6 by the manufacturer or distributor for chemicals on the Hazardous Substance List at the time
7 the chemicals are received at the facility, the employer shall request one in writing from the
8 manufacturer or distributor within 30 days after receipt of the chemical. If the employer does
9 not receive an ~~MSDS~~-SDS within 30 days after his written request, he shall notify the
10 Commissioner of Labor of the failure by manufacturer or distributor to provide the
11 ~~MSDS~~-SDS."

12 **SECTION 14.(g)** G.S. 95-194 reads as rewritten:

13 "**§ 95-194. Emergency information.**

14 ...

15 (d) Employers shall provide to the Fire Chief, upon written request of the Fire Chief, a
16 copy of the ~~MSDS~~-SDS for any chemical on the Hazardous Substance List.

17 ...

18 (f) The Fire Chief shall make information from the Hazardous Substance List, the
19 emergency response plan, and ~~MSDS's~~-SDSs available to members of the Fire Department
20 having jurisdiction over the facility and to personnel responsible for preplanning emergency
21 response, police, medical or fire activities, but shall not otherwise distribute or disclose (or
22 allow the disclosure of) information not available to the public under G.S. 95-208. Such
23 persons receiving such information shall not disclose the information received and shall use
24 such information only for the purpose of preplanning emergency response, police, medical or
25 fire activities.

26"

27 **SECTION 14.(h)** G.S. 95-208 reads as rewritten:

28 "**§ 95-208. Community information on hazardous chemicals.**

29 (a) Any person in North Carolina may request in writing from the employer a list of
30 chemicals used or stored at the facility. The request shall include the name and address of the
31 person making the request and a statement of the purpose for the request. If the person is
32 requesting the list on behalf of or for the use of an organization, partnership, or corporation, he
33 shall also disclose the name and business address of such organization, partnership, or
34 corporation. The request may include, at the option of the employer, a statement to the effect
35 that the information will be used only for the purpose stated. The employer shall furnish to the
36 person making the request a list containing, at a minimum, all chemicals included on the
37 Hazardous Substance List, the class of each chemical as defined in G.S. 95-191(a)(2), and an
38 ~~MSDS~~-SDS for each chemical for which an ~~MSDS~~-SDS is available and is requested.
39 Whenever an employer has withheld a chemical under the provisions of G.S. 95-197 from the
40 information provided under G.S. 95-208, the employer must state that the information is being
41 withheld and, upon request, must provide the ~~MSDS~~-SDS for the chemical. Additional
42 information may be furnished to the person making the request at the option of the employer.
43 The employer shall provide, at a fee not to exceed the cost of reproducing the materials, the
44 materials requested within 10 working days of the date the employer receives the written
45 request for information.

46 (b) If the employer fails or refuses to provide the information required under subsection
47 (a) of this section, the person requesting the information may request in writing that the
48 Commissioner of Labor review the request. The Commissioner of Labor may conduct an
49 investigation in the same manner as provided in G.S. 95-195(b). Following the investigation,
50 the Commissioner shall make appropriate findings. Either the employer or the person making
51 the initial request may request an administrative hearing pursuant to Chapter 150B of the

1 General Statutes. This request for an administrative hearing shall be submitted to the
2 Commissioner of Labor within 30 days following the Commissioner making his findings. The
3 Commissioner of Labor shall within 30 days of receiving the request hold an administrative
4 hearing to consider the request for information under subsection (a) of this section. This
5 hearing shall be held as provided for in G.S. Chapter 150B, Article 3. If the Commissioner of
6 Labor finds that the request complies with the requirements of subsection (a) of this section, the
7 Commissioner of Labor shall direct that the employer provide to the person making the request
8 a list containing, at a minimum, all chemicals used or stored at the facility included on the
9 Hazardous Substance List, the class of each chemical as defined in G.S. 95-191(a)(2), and an
10 ~~MSDS-SDS~~ for each chemical for which an ~~MSDS-SDS~~ is available and is requested and may
11 in his discretion assess civil penalties as provided in G.S. 95-195(c); provided that it shall be a
12 defense to such disclosure if the employer proves that the information has been requested
13 directly or indirectly by, or in behalf of, a competitor of the employer, or that such information
14 is a Hazardous Substance Trade Secret, or that the request did not comply with the
15 requirements of subsection (a) of this section.

16 (c) Any order by the Commissioner of Labor under subsection (b) of this section shall
17 be subject to judicial review as provided under G.S. Chapter 150B, Article 4."

18 **SECTION 14.(i)** G.S. 95-216 reads as rewritten:

19 "**§ 95-216. Exemptions.**

20 Notwithstanding any language to the contrary, the provisions of this Article shall not apply
21 to chemicals in or on any of the following:

- 22 (1) Hazardous substances while being transported in interstate commerce into or
23 through this ~~State;~~State.
- 24 (2) Products intended for personal consumption by employees in the
25 ~~facilities;~~facilities.
- 26 (3) Retail food sale establishments and all other retail trade establishments in
27 ~~Standard Industrial Classification Codes 53 through 59, North American~~
28 Industry Classification System Codes 44 through 45, exclusive of processing
29 and repair areas, except that the employer must comply with the provisions
30 of G.S. 95-194(a)(i);G.S. 95-194(a)(i).
- 31 (4) Any food, food additive, color additive, drug or cosmetic as such terms are
32 defined in the Federal Food, Drug and Cosmetic Act (~~21 U.S.C. 301 et~~
33 ~~seq.);~~(21 U.S.C. § 301, et seq.).
- 34 (5) A laboratory under the direct supervision or guidance of a technically
35 qualified individual provided that:
 - 36 a. Labels on containers of incoming chemicals shall not be removed or
37 defaced;
 - 38 b. ~~MSDS's-SDSs~~ received by the laboratory shall be maintained and
39 made accessible to employees and students;
 - 40 c. The laboratory is not used primarily to produce hazardous chemicals
41 in bulk for commercial purposes; and
 - 42 d. The laboratory operator complies with the provisions of
43 ~~G.S. 95-194(a)(i);G.S. 95-194(a)(i).~~
- 44 (6) Any farming operation which employs 10 or fewer full-time employees,
45 except that if any hazardous chemical in an amount in excess of 55 gallons
46 or 500 pounds, whichever is greater, is normally stored at the farming
47 operation, the employer must comply with the provisions of
48 ~~G.S. 95-194(a)(i); and~~G.S. 95-194(a)(i).
- 49 (7) Any distilled spirits, tobacco, and untreated wood ~~products; and~~products.
- 50 (8) Medicines used directly in patient care in health care facilities and health
51 care facility laboratories."

1 **SECTION 14.(j)** Subsection (c) of this section becomes effective January 1, 2018,
2 and applies to violations occurring and offenses committed on or after that date. The remainder
3 of this section becomes effective October 1, 2017.
4

5 **DEPARTMENT OF LABOR/CAROLINA STAR PROGRAM**

6 **SECTION 15.(a)** G.S. 95-127 is amended by adding a new subdivision to read:

7 "(2a) Carolina Star Program. – A voluntary program designed to recognize work
8 sites that implement effective safety and health management systems and
9 that meet standards adopted by the Commissioner pursuant to G.S. 95-157.
10 The Carolina Star Program is inclusive of four distinct programs, which
11 includes the following: Carolina Star, Rising Star, Building Star, and Public
12 Sector Star."

13 **SECTION 15.(b)** Article 16 of Chapter 95 of the General Statutes is amended by
14 adding a new section to read:

15 **"§ 95-157. Carolina Star Program.**

16 (a) The Commissioner may adopt rules for the operation of the Carolina Star Program
17 in a manner that will promote safe and healthy workplaces throughout the State. The rules for
18 the Carolina Star Program adopted by the Commissioner shall pertain to the following matters:

- 19 (1) Upper management leadership and active and meaningful employee
20 involvement.
- 21 (2) Systematic assessment of occupational hazards.
- 22 (3) Comprehensive hazard prevention, control, and mitigation programs.
- 23 (4) Employee safety and health training.
- 24 (5) Annual safety and health program evaluation.
- 25 (6) Star Annual Report.
- 26 (7) Attendance and active participation on Carolina Star Safety Conference
27 Regional Teams and conference related activities.

28 (b) Applications for participation in the Carolina Star Program shall be submitted by the
29 workplace's management. Applications shall include documentation establishing to the
30 satisfaction of the Commissioner that the employer meets all standards for Carolina Star
31 Program participation.

32 (c) The Department shall provide for on-site evaluations, as resources allow, by
33 Carolina Star Program evaluation teams of each workplace that has applied to participate in the
34 Carolina Star Program to determine if the applicant's workplace complies with the standards for
35 Carolina Star Program participation.

36 (d) A workplace's continued participation in the Carolina Star Program shall be
37 conditioned on meeting the requirements and expectations established by the Carolina Star
38 Program Policies and Procedures Manual, Star Annual Report, and successful completion of
39 periodic on-site evaluations conducted by the Carolina Star Program evaluation team.

40 (e) During periods in which a workplace is a participant in the Carolina Star Program,
41 the workplace shall be exempt from inspections under G.S. 95-136; however, this exception
42 shall not apply to inspections or investigations of the workplace arising from complaints,
43 referrals, fatalities, catastrophes, nonfatal accidents, or significant toxic chemical releases."

44 **SECTION 15.(c)** A workplace that was a participant in the uncodified Carolina
45 Star Program prior to October 1, 2017, may continue as a participant in the Carolina Star
46 Program established pursuant to G.S. 95-157, as enacted by this section. On and after October
47 1, 2017, the continued participation by that workplace in the Carolina Star Program shall be
48 conditioned upon the workplace's ability to meet the requirements and expectations established
49 by all guidelines for participation in the Carolina Star Program adopted by the Commissioner
50 under G.S. 95-157.

51 **SECTION 15.(d)** This section becomes effective October 1, 2017.

1
2 **LANDFILL/LIFE-OF-SITE**3 **SECTION 16.(a)** Section 3.2(a) of S.L. 2017-10 is repealed.4 **SECTION 16.(b)** Section 3.2(e) of S.L. 2017-10 reads as rewritten:5 **"SECTION 3.2.(e)** Subsection (a) of this section applies to franchise agreements (i)
6 executed on or after October 1, 2015, and (ii) ~~executed on or before October 1, 2015, only if all~~
7 ~~parties to a valid and operative agreement consent to modify the agreement for the purpose of~~
8 ~~extending the agreement's duration of the life-of-site of the landfill for which the agreement~~
9 ~~was executed, and public notice and hearing is provided for such modification in compliance~~
10 ~~with the requirements of G.S. 130A-294(b1)(3), 2015."~~11 **SECTION 16.(c)** G.S. 130A-294 reads as rewritten:12 **"§ 130A-294. Solid waste management program.**

13 ...

14 (a2) Permits for sanitary landfills and transfer stations shall be issued for the life-of-site
15 of the facility unless ~~revoked as otherwise provided under this Article or upon the expiration of~~
16 ~~any local government franchise required for the facility pursuant to subsection (b1) of this~~
17 ~~section, revoked.~~ For purposes of this section, "life-of-site" means the period from the initial
18 receipt of solid waste at the facility until ~~the Department approves final closure of the facility.~~
19 the facility reaches its final permitted elevations, which period shall not exceed 60 years.
20 Permits issued pursuant to this subsection shall take into account the duration of any permits
21 previously issued for the facility and the remaining capacity at the facility.22 (a3) In order to preserve long-term disposal capacity, a life-of-site permit issued for a
23 sanitary landfill shall survive the expiration of a local government approval or franchise. In
24 order to preserve any economic benefits included in the franchise, the County may extend the
25 franchise under the same terms and conditions for the term of the life-of-site permit. The
26 extension of the franchise hereby shall not trigger the requirements for a new permit, a major
27 permit modification, or a substantial amendment to the permit.

28 ...

29 (b1) (1) For purposes of this subsection and subdivision (4) of subsection (a) of this
30 section, a "substantial amendment" means either:

31 ...

32 (2) A person who intends to apply for a new permit for a sanitary landfill shall
33 obtain, prior to applying for a permit, a franchise for the operation of the
34 sanitary landfill from each local government having jurisdiction over any
35 part of the land on which the sanitary landfill and its appurtenances are
36 located or to be located. A local government may adopt a franchise
37 ordinance under G.S. 153A-136 or G.S. 160A-319. A franchise granted for a
38 sanitary landfill shall (i) be granted for the life-of-site of the landfill, but for
39 a period not to exceed 60 years, and (ii) include all of the following:

- 40 a. A statement of the population to be served, including a description of
-
- 41 the geographic area.
-
- 42 b. A description of the volume and characteristics of the waste stream.
-
- 43 c. A projection of the useful life of the sanitary landfill.
-
- 44 d. Repealed by Session Laws 2013-409, s. 8, effective August 23, 2013.
-
- 45 e. The procedures to be followed for governmental oversight and
-
- 46 regulation of the fees and rates to be charged by facilities subject to
-
- 47 the franchise for waste generated in the jurisdiction of the franchising
-
- 48 entity.
-
- 49 f. A facility plan for the sanitary landfill that shall include the
-
- 50 boundaries of the proposed facility, proposed development of the
-
- 51 facility site, the boundaries of all waste disposal units, final

elevations and capacity of all waste disposal units, the amount of waste to be received per day in tons, the total waste disposal capacity of the sanitary landfill in tons, a description of environmental controls, and a description of any other waste management activities to be conducted at the facility. In addition, the facility plan shall show the proposed location of soil borrow areas, leachate facilities, and all other facilities and infrastructure, including ingress and egress to the facility.

- (3) Prior to the award of a franchise for the construction or operation of a sanitary landfill, the board of commissioners of the county or counties in which the sanitary landfill is proposed to be located or is located or, if the sanitary landfill is proposed to be located or is located in a city, the governing board of the city shall conduct a public hearing. The board of commissioners of the county or counties in which the sanitary landfill is proposed to be located or is located or, if the sanitary landfill is proposed to be located or is located in a city, the governing board of the city shall provide at least 30 days' notice to the public of the public hearing. The notice shall include a summary of all the information required to be included in the franchise, and shall specify the procedure to be followed at the public hearing. The applicant for the franchise shall provide a copy of the application for the franchise that includes all of the information required to be included in the franchise, to the public library closest to the proposed sanitary landfill site to be made available for inspection and copying by the public. The requirements of this subdivision shall not apply to franchises extended pursuant to subsection (a3) of this section.

...."

CLARIFY DEFINITION OF COMMERCIAL REAL ESTATE/BROKER LIEN

SECTION 17. G.S. 44A-24.2(3) reads as rewritten:

- "(3) Commercial real estate. – Any real property or interest therein, whether freehold or nonfreehold, which at the time the property or interest is made the subject of an agreement for broker services:
 - a. Is lawfully used primarily for sales, office, research, institutional, agricultural, forestry, warehouse, manufacturing, industrial, or mining purposes or for multifamily residential purposes involving five or more dwelling units;
 - b. May lawfully be used for any of the purposes listed in sub-subdivision (3)a. of this section by a zoning ordinance adopted pursuant to the provisions of Article 18 of Chapter 153A or Article 19 of Chapter 160A of the General Statutes or which is the subject of an official application or petition to amend the applicable zoning ordinance to permit any of the uses listed in sub-subdivision (3)a. of this section which is under consideration by the government agency with authority to approve the amendment; or
 - c. Is in good faith intended to be immediately used for any of the purposes listed in sub-subdivision (3)a. of this section by the parties to any contract, lease, option, or offer to make any contract, lease, or option."

PRESSURE VESSEL EXCLUSION

SECTION 18. G.S. 95-69.10(b)(8) reads as rewritten:

- 1 "(8) Any of the following pressure vessels that do not exceed the listed
2 limitations if the vessel is not equipped with a quick actuating closure:
3 a. Five cubic feet in volume and 250 psig.
4 b. Three cubic feet in volume and 350 psig.
5 c. One and one-half cubic feet in volume and 600 psig.
6 d. An inside diameter of six inches with no limitation on pressure.
7 e. Five cubic feet in volume when the pressure vessel is constructed and
8 operated on the same real property zoned industrial and where its
9 operation is undertaken using commercially acceptable safety
10 precautions for the application."
11

12 WASTEWATER SYSTEM PERMIT EXTENSION

13 **SECTION 19.** G.S. 130A-336 is amended by adding a new subsection to read:

14 "**(b1)** An improvement permit or authorization for wastewater system construction issued
15 by a local health department from January 1, 2000, to January 1, 2015, which has not been
16 acted on and would have otherwise expired, shall remain valid until January 1, 2020, without
17 penalty, unless there are changes in the hydraulic flows or wastewater characteristics from the
18 original local health department evaluation. Permits are transferrable with ownership of the
19 property. Permits shall retain the site, soil evaluations, and construction conditions of the
20 original permit."
21

22 STUDY CREATION OF A PROCESS FOR THE MEDIATION AND ARBITRATION 23 OF DISPUTES BETWEEN OWNERS OF PROPERTY LOCATED IN A 24 HOMEOWNERS OR PROPERTY OWNERS ASSOCIATION AND THE GOVERNING 25 ENTITIES OF SUCH HOMEOWNERS OR PROPERTY OWNERS ASSOCIATIONS

26 **SECTION 20.** The Legislative Research Commission shall study the creation of a
27 process for the mediation and arbitration of disputes between the owners of property located in
28 a homeowners or property owners association and the governing entities of such homeowners
29 or property owners associations. The Legislative Research Commission shall report its findings
30 and recommendations to the 2018 Regular Session of the 2017 General Assembly when it
31 convenes.
32

33 SEVERABILITY CLAUSE AND EFFECTIVE DATE

34 **SECTION 21.(a)** If any section or provision of this act is declared unconstitutional
35 or invalid by the courts, it does not affect the validity of this act as a whole or any part other
36 than the part declared to be unconstitutional or invalid.

37 **SECTION 21.(b)** Except as otherwise provided, this act is effective when it
38 becomes law.